

JAN. 13. 2012 2:07PM

JACKSON LEWIS NJ 973-538-6513

NO. 7590 P. 2

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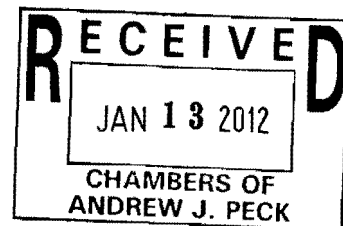
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January 13, 2012

VIA FACSIMILE (212-805-7933)

Hon. Andrew J. Peck  
United States Magistrate Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312



Re: da Silva Moore, et al. v. Publicis Groupe SA, et al.  
Case No. 11-CV-1279

Dear Judge Peck:

We represent the Defendant, MSLGROUP Americas, Inc. ("MSL"), sued herein as MSLGroup, in this matter. On January 4, 2012, the parties appeared before Your Honor for a conference and, during the conference, we were instructed to continue working on a joint ESI Protocol and to finalize the protocol within two weeks (i.e., by January 18, 2012). We write to respectfully request an additional week (i.e., until January 25, 2012) to complete this task and/or reach a consensus as to what portions of the protocol the parties will need to seek either a ruling or direction from the Court. Currently, an in-person conference is scheduled for February 2, 2012 at 9:30 a.m.

Our request is necessitated, in part, by the fact that we are still gathering information from our client regarding the additional custodians Plaintiffs requested be added to the search process as well as different sources of ESI that Plaintiffs have requested be searched outside of the predictive coding process. Although this information was requested while I was away, we have not yet been able to obtain all of the information we need. Until we have this information, we are not in a position to advise as to whether our client agrees to add some or all of the additional custodians proposed by Plaintiffs or whether it is appropriate to add certain sources of ESI to the first phase of the review process. For example, depending on the size of some of the additional e-mail accounts requested by Plaintiffs, it may be necessary for the parties to consider removing other custodians and/or applying certain filters to the additional accounts before they

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are loaded. However, in light of technical issues involving the long term archive in which the e-mail accounts are stored, we have not yet received the requested information. Additionally, although we have circulated drafts of the ESI Protocol internally and have been in consultation with our vendor during my absence regarding a modified work flow for the use of predictive coding, it is taking more time than anticipated to memorialize that aspect of the protocol. Specifically, we are attempting to address Plaintiffs' concerns regarding a cap on the number of documents to be reviewed as well as Defendant MSL's concerns regarding the anticipated costs. However, given the fluid nature of any predictive coding review, it has been challenging to develop a work flow that addresses the parties' respective concerns.

We have communicated with Plaintiffs' counsel and they do not consent to this request. The following is Plaintiffs' response to Defendant MSL's request: Plaintiffs do not consent to Defendant MSL's request for extension to January 25. Despite the Court's instruction that MSL continue to work on the ESI protocol while Defense Counsel Anders is away on vacation, MSL did not follow the Court's instruction. Though Plaintiffs provided MSL with the most recent version of their proposed ESI Protocol on January 3, 2012, the day before the last conference, MSL has yet to provide any redlined edits or comments. Furthermore, MSL has yet to answer key questions related to the ESI Protocol. Defense counsel committed at the parties' January 4 meet and confer to answer these questions promptly. While Plaintiffs memorialized these outstanding issues in writing on January 9, Plaintiffs have not yet received answers. Instead of granting Defendant's extension request, Plaintiffs respectfully request that the Court order Defendant MSL to provide Plaintiffs with answers to the questions referenced above and a redline edit to the latest draft ESI protocol by midnight tonight, January 13, 2012. Plaintiffs further request that the Court order that the parties' Joint ESI Protocol be submitted to the Court on or before January 20, 2012.

We thank the Court for its consideration of the above.

Very truly yours,

JACKSON LEWIS LLP

Brett M. Anders

BMA

cc: All counsel of record (via e-mail)

The deadline for the Joint ESI Protocol  
is extended to January 25, 2012.  
Further extensions are unlikely.  
1/17/2012

SO ORDERED:

Hon. Andrew J. Peck  
United States Magistrate Judge